

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Californians Against Government Run Healthcare, a Committee Against Proposition \_\_\_\_, with Major Funding by Restaurants and Retailers (“Respondent Committee”) is a state ballot measure committee primarily formed to qualify a referendum opposing recently enacted legislation that would require employers to provide health insurance for their employees. Respondent Steve Churchwell serves as treasurer of Respondent Committee.

Respondents had a duty under the online disclosure provisions of the Political Reform Act (the “Act”)<sup>1</sup> to file an electronic report disclosing the receipt of any contribution of \$5,000 or more, within 10 days of receiving the contribution. In this matter, however, Respondents failed to file electronic reports for 10 contributions of \$5,000 or more.

For the purposes of this stipulation, Respondents’ violations of the Act are stated as follows:

COUNT 1: Respondents failed to file an electronic report that was due on or about November 3, 2003, disclosing the receipt of a contribution of \$250,000 by the California Restaurant Association, on or about October 24, 2003, in violation of section 85309, subdivision (d).

COUNT 2: Respondents failed to file an electronic report that was due on or about November 3, 2003, disclosing the receipt of a contribution of \$250,000 by the California Restaurant Association Issue PAC, on or about October 24, 2003, in violation of section 85309, subdivision (d).

COUNT 3: Respondents failed to file an electronic report that was due on or about November 10, 2003, disclosing the receipt of a contribution of \$100,000 by Nordstrom, Inc., on or about October 31, 2003, in violation of section 85309, subdivision (d).

COUNT 4: Respondents failed to file an electronic report that was due on or about November 10, 2003, disclosing the receipt of a contribution of \$100,000 by Robinsons-May, Inc., on or about October 31, 2003, in violation of section 85309, subdivision (d).

COUNT 5: Respondents failed to file an electronic report that was due on or about

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at title 2, California Code of Regulations, sections 18109 through 18997. All regulatory references are to title 2, division 6, of the California Code of Regulations.

November 10, 2003, disclosing the receipt of a contribution of \$100,000 by Target Corp., on or about October 31, 2003, in violation of section 85309, subdivision (d).

COUNT 6: Respondents failed to file an electronic report that was due on or about November 10, 2003, disclosing the receipt of a contribution of \$100,000 by Sears-Roebuck & Co., on or about October 31, 2003, in violation of section 85309, subdivision (d).

COUNT 7: Respondents failed to file an electronic report that was due on or about November 10, 2003, disclosing the receipt of a contribution of \$100,000 by Yum! Brands, Inc., on or about October 31, 2003, in violation of section 85309, subdivision (d).

COUNT 8: Respondents failed to file an electronic report that was due on or about November 10, 2003, disclosing the receipt of a contribution of \$75,000 by Darden Restaurants, Inc., on or about October 31, 2003, in violation of section 85309, subdivision (d).

COUNT 9: Respondents failed to file an electronic report that was due on or about November 10, 2003, disclosing the receipt of a contribution of \$25,000 by Darden Restaurants, Inc. Employees Good Government Fund, on or about October 31, 2003, in violation of section 85309, subdivision (d).

COUNT 10: Respondents failed to file an electronic report that was due on or about November 10, 2003, disclosing the receipt of a contribution of \$5,000 by RUI One Corporation (dba Restaurants Unlimited), on or about October 31, 2003, in violation of section 85309, subdivision (d).

## **SUMMARY OF THE LAW**

### **Duty to File Campaign Statements**

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. In furtherance of this purpose of disclosure, the Act requires ballot measure committees to file various periodic campaign statements disclosing the contributions they have received and the expenditures they have made. Section 82013, subdivision (a) defines a “committee” as any person who receives contributions totaling \$1,000 or more per year. A “ballot measure committee” is a committee that is primarily formed to support or oppose a single measure. (Section 82047.5, subd. (b).)

### **Duty to File Campaign Statements Electronically**

In 1997, the Legislature amended the Act to require committees that are significantly active on the state level to file their campaign statements electronically as well as on paper. When doing so, the Legislature specifically declared, as set forth in section 84601, subdivisions (b) and (c), that public access to campaign disclosure information is a vital and integral component of a fully informed electorate, and that advances in technology have made it viable for disclosure statements to be filed online, thereby maximizing availability to the public.

The Act therefore sets forth an online campaign disclosure program. One feature of this program is set forth in section 84605, which requires ballot measure committees that support or oppose state ballot measures, and that raise \$50,000 or more, to file their campaign statements electronically, in addition to filing campaign statements on paper. Another feature of this program is set forth in section 85309, subdivision (b), which requires ballot measure committees that support or oppose state ballot measures, and that raise \$50,000 or more, to file an electronic report disclosing the receipt of any contribution of \$1,000 or more that is received during an election cycle. The electronic report disclosing the receipt of a contribution of \$1,000 or more must be filed within 24 hours of when the contribution is received. A third feature of this program is set forth in section 85309, subdivision (d), which requires ballot measure committees that support or oppose state ballot measures, and that raise \$50,000 or more, to file an electronic report disclosing the receipt of any contribution of \$5,000 or more that is received at any other time than during an election cycle. The electronic report disclosing a contribution of \$5,000 or more must be filed within 10 days of when the contribution is received. Section 85204 defines “election cycle,” for the purposes of section 85309, as the period commencing 90 days before an election and ending on the date of the election.

### **Liability of Committee Treasurers**

Under section 81004, subdivision (b), section 84100, and regulation 18427, subdivision (c), it is the duty of a committee’s treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5, 91006.)

### **SUMMARY OF THE FACTS**

Respondent Committee is a state ballot measure committee, having qualified as a committee on October 24, 2003. On November 3, 2003, within 10 days of qualifying as a committee, Respondent Committee properly filed a statement of organization. Respondent Steve Churchwell serves as treasurer of Respondent Committee. Respondent Committee was primarily formed to qualify a referendum opposing recently enacted legislation (SB 2) that would require employers to provide health insurance for their employees. A qualified referendum prevents a bill from taking effect until the voters have decided whether or not it should become law. If the electorate votes “no” on the referendum measure, the bill will not become law. SB 2 will be placed on the ballot before the voters in the November 2, 2004 general election.

As Respondent Committee is a state ballot measure committee that received contributions totaling \$50,000 or more, Respondents had a duty under the online disclosure provisions of the Act to file an electronic report disclosing the receipt of any contribution of \$5,000 or more

within 10 days of receiving the contribution. In this matter, however, Respondents did not file electronic reports disclosing any of the contributions of \$5,000 or more that Respondent Committee received during the first 10 days of Respondent Committee's existence. The following table sets forth by count the receipt date, source, and amount of each contribution not properly reported:

Count	Date	Contributor	Amount
1	10/24/03	California Restaurant Association	\$250,000
2	10/24/03	California Restaurant Association Issues PAC	\$250,000
3	10/31/03	Nordstrom, Inc.	\$100,000
4	10/31/03	Robinsons-May, Inc.	\$100,000
5	10/31/03	Target Corp.	\$100,000
6	10/31/03	Sears Roebuck & Co.	\$100,000
7	10/31/03	Yum! Brands, Inc.	\$100,000
8	10/31/03	Darden Restaurants, Inc.	\$75,000
9	10/31/03	Darden Restaurants, Inc. Employees Good Government Fund	\$25,000
10	10/31/03	RUI One Corporation (dba Restaurants Unlimited)	\$5,000
<b>Total</b>			<b>\$1,105,000</b>

By failing to file electronic reports disclosing 10 contributions of \$5,000 or more, Respondents committed 10 violations of section 85309. In mitigation, Respondents disclosed the 10 contributions two months later on a semi-annual campaign statement that was filed on or about January 12, 2004, in both a paper and electronic format. Thus, the contributions were disclosed to the public by both Respondent Committee and the contributor 10 months before the November 2, 2004 election. In further mitigation, Respondents otherwise complied with section 85309 by properly disclosing 18 contributions of \$5,000 or more totaling approximately \$1.1 million.

## CONCLUSION

This matter consists of 10 counts of violating section 85309, which carry a maximum possible administrative penalty of Five Thousand Dollars (\$5,000) per count, for a total of Fifty-Thousand Dollars (\$50,000). In this case the total amount of contributions not immediately disclosed to the public as contemplated by the Act's online disclosure program was approximately \$1.1 million, a significant sum of money. On the other hand, the harm suffered by the public was somewhat diminished by the later disclosure of the contributions on electronic and paper reports filed by Respondent Committee two months later, and well before the November 2, 2004 general election.

Accordingly, the facts of this case justify the imposition of a penalty in the middle of the penalty range, at Two Thousand Five Hundred Dollars (\$2,500) per count, for a total of Twenty-five Thousand Dollars (\$25,000).